

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE

Application Number: 2207773

Applicant Name: Garrett Birkeland

Address of Proposal: 1007 NE 103rd Street

SUMMARY OF PROPOSED ACTION

Master Use Permit to subdivide one parcel of land into two parcels of land in a steep slope environmentally critical area (ECA).^{*} Proposed parcel sizes are: Parcel A) 4,320.0 sq. ft. and Parcel B) 4,323 sq. ft. A single-family residence on proposed Parcel B will remain and the detached garage on proposed Parcel A will be removed.

*The short plat received a limited exemption from the steep slope development standards as the slope is not more than 20 feet in height and is also not part of a larger steep slope system. A geotechnical report was submitted which demonstrated that no adverse impact will result from the exemption. The ECA Submittal, General and Landslide-Hazard and other applicable development standards still apply for the project.

The following approvals are required:

Short Subdivision – to create two parcels of land.
(Seattle Municipal Code Chapter 23.24)

SEPA - Environmental Determination in an Environmentally Critical Area.
(Seattle Municipal Code Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or
another agency with jurisdiction

BACKGROUND DATA

Site Description

The subject property is located in a Single-Family Residential 5000 (SF 5000) on the southeast corner of Roosevelt Way NE and NE 103rd Street. The approximately 8644 square foot proposal site has 88.97 lineal feet of frontage along NE 103rd St., its north property line and 97.14 lineal feet along Roosevelt Way NE, its west property line. Roosevelt Way NE at this location is a two-lane paved residential street with curbs, gutters and sidewalks. NE 103rd St. is paved with no curbs or sidewalks.

The site slopes approximately twelve feet at the northwest corner of the property and continues the slope along NE 103rd St. to a detached garage located in the northeast corner of the site. An approximate eight foot slope contained by a rockery wall exists along the property line abutting Roosevelt Way NE. The site is designated a steep slope environmentally critical area with the portion over 40% occurring along the north property line and in the northwest corner of the site.

Area Development

The surrounding property is developed with single family residences that are also zoned Single-Family Residential 5000 (SF 5000).

Proposal Description

The applicant proposes to short subdivide one parcel of land into two parcels of land in a steep slope environmentally critical area. Proposed parcel areas are: Parcel A) 4,320.9 sq. ft. and Parcel B) 4,323.6 sq. ft. The single-family residence on proposed Parcel B will remain and the detached garage on proposed Parcel A will be removed. A new parking space will be provided in the northeast corner of proposed Parcel B. The parking space will replace the parking being removed with the demolition of the existing garage. Access to the parking space will be provided via a driveway easement from NE 103rd St. This driveway will also be used for the access to the new proposed residence.

Public Comments

The public comment period for the proposed project was extended and ended on April 2, 2003. Three comment letters were received, one respondent expressed concerns of slope and soil stability, lot size, access and parking impacts and the loss of mature cedar trees with development on the northern portion of the site. One respondent requested clarification of the exemption approval and the other respondent had the understanding that there was some kind of an agreement that the site would not be developed.

ANALYSIS - SHORT SUBDIVISION

Pursuant to SMC 23.24.040, no short subdivision shall be approved unless all of the following facts and conditions are found to exist. The findings which follow are based upon information provided by the applicant; review of access, drainage and zoning within the Department of Design, Construction and Land Use (DCLU); review from Seattle Public Utilities, Seattle Fire Department and Seattle City Light; and, review by the Land Use Planner.

1. *Conformance to the applicable Land Use Code provisions;*

The lots created by the proposed short subdivision will conform to all development standards of the SF 5000 zone. The lot configurations provide adequate buildable area to meet applicable density, setbacks, lot coverage requirements and other land use code development standards. This short subdivision was submitted on the basis of application of the 75% - 80% rule pursuant to SMC 23.44.010.B.1.b: By subdivision, lots in a single family zone may be created which are “[a]t least seventy-five (75) percent of the minimum required lot area and [are] at least eighty (80) percent of the mean lot area of the lots on the same block face within which the lot will be located and within the same zone.” Seventy-five (75) percent of the minimum lot size of the SF 5000 zone is 3,750 square feet. Eighty percent of the mean lot sizes of the lots on the subject block face is 4,205.6 square feet. Parcel A, at 4,320.9 square feet and Parcel B, at 4,323.6 square feet are greater than eighty percent of the mean lot area of the lots on the same block face (4,205.6 sq. ft.) and greater than seventy-five percent of the minimum required lot area (3,750 sq. ft.). Thus the proposed lots meet the exception to the minimum lot area as contained in SMC 23.44.010.B.1.b. Any new development must conform to land use code requirements at the time of application.

2. *Adequacy of access for vehicles, utilities and fire protection, as provided in Section 23.53.005;*

Proposed Parcels A and B will have adequate vehicle and utility access from North 103rd Street. The Seattle Fire Department provides emergency vehicle access to the site. Seattle City Light provides electrical service to the subject property, any required easements will be provided on the face of the plat prior to recording of the short plat.

3. *Adequacy of drainage, water supply, and sanitary sewage disposal;*

The existing residence located on Proposed Parcel B is connected by means of a twinned sidesewer, also serving the property to the south addressed as 10212 Roosevelt Way NE, to an 8-inch public sanitary sewer (PSS) located in NE 103rd Street. There is also an 8-inch PSS located in the far side of Roosevelt Way NE. A sidesewer easement “along the line as constructed” shall be required across Proposed Parcel A for the benefit of Proposed Parcel B.

A 15-inch public storm drain (PSD) is located on the far side of Roosevelt Way NE. This area is part of the Thornton Creek Drainage Sub-basin and this PSD discharges to Thornton Creek.

Seattle Public Utilities reviewed the short subdivision application and approved a Water Availability Certificate, No. 2002-1236, on November 27, 2002. All conditions on the certificate must be met prior to receiving water service.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed subdivision is consistent with the SF 5000 zone Seattle Land Use Code provisions. This proposal meets this criterion due to the fact that additional housing will be provided within the City limits as a result of the subdivision of the parcel and construction of ground related housing.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

The site is mapped as an Environmentally Critical Area. A limited exemption was granted based on the submitted information which shows that the steep slopes at the subject site are not more than 20 feet in height and are not part of a larger steep slope system. A geotechnical report was also submitted which demonstrated that no adverse impact will result from this exemption. In this respect the ECA Steep Slope Development standards are waived. The ECA Submittal, General and Landslide-Hazard and other applicable development standards still apply for the project.

Grading and construction of any future structures will be reviewed during the building permitting stage and will be examined for conformance with all applicable requirements of the Land Use Code and Environmentally Critical Areas Ordinance. Therefore, this proposed short subdivision is in conformance with applicable City of Seattle Regulations for Environmentally Critical Areas.

6. *Is designed to maximize the retention of existing trees;*

The design of the plat will allow for retention of trees on the site where possible. Existing mature cedar trees in the middle of the proposed parcel will likely not be able to be saved because of their location. The applicant must note on the face of the plat that all future construction on parcels A and B must comply with the tree regulations of SMC 23.44.008I.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

This criterion is not applicable to this short subdivision.

DECISION - SHORT SUBDIVISION

The proposed Short Subdivision is **CONDITIONALLY GRANTED** subject to the conditions noted at the end of the report.

ANALYSIS - SEPA

The proposal site is located in a Steep Slope Environmentally Critical Area, thus the short subdivision is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

The initial disclosure of the potential impacts from this project was made in the annotated environmental checklist dated February 17, 2003, and supplemental information in the project file submitted by the applicant. The information in the checklist, the supplemental information, and the experience of the lead agency with the review of similar projects forms the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *"Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation"* subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

The SEPA Environmentally Critical Areas Policy (SMC 25.05.908) provides a listing of categorically exempt activities in certain environmentally critical areas as mapped and regulated in SMC 25.09, Regulations for Environmentally Areas, which are subject to additional environmental review to determine impacts and to provide further mitigation beyond the development standards required by all City codes. Thus, a more detailed discussion of some of the impacts is appropriate.

Short - Term Impacts

The following temporary impacts are expected: 1) temporary soil erosion; and 2) loss of soil stability. These impacts are not considered significant because they are temporary and/or minor in scope (SMC 25.05.794).

City codes and/or ordinances apply to the proposal and will provide mitigation for some of the identified impacts. Specifically these are: 1) Building Code (construction measures in general); 2) Stormwater, Drainage and Grading Code (temporary soil erosion); and 3) Regulations for Environmentally Critical Areas. Compliance with these applicable codes and ordinances will be adequate to achieve sufficient mitigation and further mitigation by imposing specific conditions is not necessary for these impacts. However, the proposal site is located in a landslide-prone environmentally critical area. Therefore, additional discussion of earth/soils impacts is warranted.

Earth

The ECA Ordinance and Directors Rule (DR) 3-93 require submission of a soils report to evaluate the site conditions and provide recommendations for safe construction in areas with steep slopes, liquefaction zones, and/or a history of unstable soil conditions. Pursuant to this requirement the applicant submitted a geotechnical engineering study prepared by Dennis M. Bruce, P.E. dated October 5, 2002. The report evaluates the soil and site conditions and provides recommendations for future construction.

The Stormwater, Grading and Drainage Control Code requires preparation of a soils report to evaluate the site conditions and provide recommendations for safe construction on sites where grading will involve cuts or fills of greater than three feet in height or grading greater than 100 cubic yards of material. The Stormwater, Grading and Drainage Control Code provides extensive conditioning authority and prescriptive construction methodology to assure safe construction techniques are used, therefore, no additional conditioning is warranted pursuant to SEPA policies.

Long - Term Impacts

The long-term impacts are typical of single-family development and will be mitigated by the City's adopted codes and/or ordinances. Specifically these are: Stormwater, Grading and Drainage Control Code (storm water runoff from additional site coverage by impervious surface); and the Regulations for Environmentally Critical Areas. There are no long-term significant impacts from the proposed short subdivision.

Summary

The City's adopted codes and/or ordinances will adequately provide mitigation for any possible short-term and long-term impacts. Additional mitigation pursuant to SEPA conditioning authority is not warranted.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance: This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance: This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA

None.

CONDITIONS - SHORT SUBDIVISION

The owner(s) and responsible party(s) shall:

Prior to Recording

Conditions of Approval Prior to Recording

The owner(s) and/or responsible party(s) shall:

1. Provide final recording forms and fees. Have the final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel or tract created by the short subdivision shall be surveyed in the field and all property corners set in conformance with appropriate state statute. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown, as well as all structures and distances from them to the proposed property lines. All existing structures, principal and accessory, shall be shown on the face of the plat and their distances to the proposed property lines dimensioned. A licensed surveyor shall stamp the short plat drawings.
2. Include the following on the face of the plat: "Any tree removal or replacement is subject to the requirements of Seattle Municipal Code 23.44.008.I.Tree Requirements. All future construction is subject to the applicable code provisions of SMC 25.09, Tree Protection. All trees shall remain on site until such time that building permit is approved and issued which allows for removal of trees on site."
3. Add to the face of the plat the language to grant the Seattle City Light easement, if required.
4. A joint use and maintenance agreement for the easement must be provided with the final recording documents.
5. Add the conditions of approval after recording on the face of the plat or on a separate page. If the conditions are on a separate page, insert on the plat "For conditions of approval after recording see page ___ of ___."
6. Provide on the face of the plat an easement for sidesewer "along-the-line-as-constructed", across Parcel A for the benefit of Parcel B.
7. Submit the recording fee and final recording forms for approval.

Prior to Issuance of a Building Permit

8. Obtain a permit to remove the existing detached garage on Parcel A and replace the parking on Parcel B as shown on the face of the plat. These permits must be issued and work inspected prior to issuance of a building permit for Parcel A.
9. Attach a copy of the recorded short subdivision to all sets of building permit application plans.

Signature: (signature on file) Date: October 13, 2003
Lori Swallow, Land Use Planner
Department of Design, Construction and Land Use